

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

GARCIA FELIZ MALDONADO,

Plaintiff,

v.

CIVIL ACTION NO. 5:21-cv-00514

MICHAEL D. CARVAJAL, *Director of BOP*,
J.C. PETRUCC, *Regional Director*,
D.L. YOUNG, *Warden of FCI Beckley*, and
J. BALL, *Case Manager*,

Defendants.

ORDER

Pending is Plaintiff Garcia Feliz Maldonado's Complaint [Doc. 1], filed September 13, 2021. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on February 4, 2022. Magistrate Judge Aboulhosn recommended that the Court dismiss the Plaintiff's Complaint in part.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent

objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were originally due on February 18, 2022. The Plaintiff, however, filed a motion to extend the time to object [Doc. 10], which the Court granted. The Court extended the objection deadline to March 21, 2022. [Doc. 14]. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [Doc. 9], **DENIES** Plaintiff’s Motion for Emergency Preliminary Injunction and Preliminary Hearing [Doc. 7], **DISMISSES IN PART** Plaintiff’s Complaint [Doc. 1] as it relates to the Plaintiff’s Eighth Amendment and Due Process Claims regarding his transfer to a higher security level prison, and **REREFERS** the matter to Magistrate Judge Aboulhosn regarding Plaintiff’s Eighth Amendment excessive force claim and nutritionally inadequate diet claim.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: April 4, 2022



Frank W. Volk
Frank W. Volk
United States District Judge